

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

|                                  |   |   |
|----------------------------------|---|---|
| <b>United States of America,</b> | ) | <b>CASE NO. 5:12 CR 84</b>                    |
|                                  | ) |   |
| <b>Plaintiff/Respondent,</b>     | ) | <b>JUDGE PATRICIA A. GAUGHAN</b>              |
|                                  | ) |   |
| <b>Vs.</b>                       | ) |   |
|                                  | ) |   |
| <b>Gillett L. Jones,</b>         | ) | <b><u>Memorandum of Opinion and Order</u></b> |
|                                  | ) |   |
| <b>Defendant/Petitioner.</b>     | ) |   |

This matter is before the Court upon petitioner’s Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Doc. 10). In his motion, petitioner relies on *Johnson v. United States*, 135 S. Ct. 2551, 2563 (2015), to argue that he was unconstitutionally sentenced as a career offender under the residual clause of U.S.S.G. § 4B2(a)(2). In *Johnson*, the United States Supreme Court struck down the analogous residual clause of the Armed Career Criminal Act’s definition of a “violent felony” as void for vagueness. More recently, however, the Supreme Court held in *Beckles v. United States*, – U.S. –, – S. Ct. –, 2017 WL 855781 (U.S. Mar. 6, 2017), that the United States Sentencing Guidelines are not subject to a vagueness

challenge under the Due Process Clause. Thus, *Johnson*'s vagueness holding does not apply to the Sentencing Guideline provision under which petitioner was sentenced. Petitioner's motion is, therefore, DENIED.

Furthermore, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253; Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/ Patricia A. Gaughan  
PATRICIA A. GAUGHAN  
United States District Judge

Dated: 3/21/17